

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Quintin D. Mills)	Civil Action No.: 5:18-121-BHH
)	
Petitioner,)	
)	
v.)	<u>OPINION AND ORDER</u>
)	
Sheriff Al Cannon,)	
)	
Respondent.)	
_____)	

Quintin D. Mills, (“Petitioner”), proceeding *pro se*, filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. (ECF No. 1.) In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., the action was referred to United States Magistrate Judge Kaymani D. West for pretrial handling and a Report and Recommendation (“Report”). Magistrate Judge West recommends that this action be dismissed without prejudice. (ECF No. 13.) The Report sets forth in detail the relevant facts and standards of law on this matter and the Court incorporates them without recitation.

BACKGROUND

Petitioner filed this action seeking to be released from custody pending adjudication of his criminal charges in state court. On January 29, 2018, Magistrate Judge West issued a Report (ECF No. 13), and on February 7, 2018, Petitioner filed his objections (ECF No. 15). The Court has reviewed the objections, but finds them to be without merit. Therefore, it will enter judgment accordingly.

STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight. The responsibility to make a final

determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). However, the Court need not conduct a *de novo* review when a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of a timely filed, specific objection, the Magistrate Judge’s conclusions are reviewed only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

DISCUSSION

The Magistrate Judge found that this action should be dismissed because Petitioner can pursue his constitutional claims in state court where his criminal case is pending, and because Petitioner has failed to demonstrate the “extraordinary circumstances” necessary to justify this Court interfering with state criminal proceedings. See *Younger v. Harris*, 401 U.S. 37 (1971); *Gilliam v. Foster*, 75 F.3d 881 (4th Cir. 1996). According to the Petition, an ongoing state criminal proceeding exists in Charleston County. Petitioner filed objections to the Report, which the Court has carefully reviewed. Petitioner’s filing fails to direct the Court to any specific error in the Magistrate’s proposed findings and recommendations. Petitioner wrongly asserts that *Younger* does not apply because he is “unable to pay the \$150.00 filing fee in state [(S.C.) Court] for writ of habeas corpus.” (ECF No. 15 at 1.) Petitioner is advised that the

Younger abstention doctrine applies regardless of his ability to pay filing fees; however, there should be no filing fee to assert his theories for relief pursuant to a writ of habeas corpus within the state criminal proceeding itself. Plaintiff's other objections merely rehash points in his Complaint or are irrelevant. The Report concludes that the Petitioner is precluded from federal habeas relief at this time and that his petition should be dismissed.

The Court agrees with the cogent analysis by the Magistrate Judge, and because that analysis evinces no error, the Court need not discuss the same issues for a second time here. Therefore, the Court overrules Petitioner's Objections.

CONCLUSION

For the reasons stated above and by the Magistrate Judge, the Court overrules Petitioner's objections and adopts and incorporates by reference the Magistrate Judge's Report herein. It is therefore ORDERED that Petitioner's § 2241 petition is DISMISSED without prejudice and without requiring the respondent to file a return.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

August 10, 2018
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.